



DATE: May 14, 2012

TO: Board of Water and Soil Resources' Members, Advisors, and Staff

FROM: John Jaschke, Executive Director *John Jaschke*

SUBJECT: BWSR Board Meeting Notice – May 23, 2012

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, May 23, 2012, beginning at 9:00 a.m. The meeting will be held in the lower level Board Room at 520 Lafayette Road N., St. Paul. Parking is available in the lot directly in front of the building (see hooded parking area).

We have a short meeting as there are two Committees (RIM and Grants) that will be meeting before and after the Board meeting with long agendas. The goal is to be finished by about 10:30 a.m. so that the Grants Committee can get started before lunch. The Committee meeting notices and agendas are at: <http://www.bwsr.state.mn.us/aboutbwsr/index.html>. Most of these items are expected to be part of the June Board meeting.

The following information pertains to agenda items:

COMMITTEE MEETINGS

Northern Water Planning Committee

1. **Polk County Local Water Management Plan Update** - The Northern Water Planning Committee met on April 11, 2012 to review the Polk County Plan Update and recommend approval. The Polk County Local Water Management Plan is identified as a 10-year plan with a review of the Plan in five years. **DECISION ITEM**

NEW BUSINESS

1. **Legislative Update** – Julie Blackburn, Assistant Director. The legislature adjourned on May 8th. Bills that were passed and signed by the Governor included: the Omnibus Environment and Natural Resources Policy Bill, a Bonding Bill and the Legacy Bill. Julie will overview the key provisions of each bill. **INFORMATION ITEM**
2. **Minnesota Elevation Mapping Project Update (aka LiDAR)** – Tim Loesch, DNR, GIS Operations Supervisor, will overview the digital elevation data acquisition and describe how it is used for many natural resource management functions and projects, including terrain analysis, other GIS applications, conservation practice planning and design (including wetland restorations), as well as for hydrologic modeling and other natural resource studies. **INFORMATION ITEM**

If you have any questions regarding the agenda, please feel free to give me a call at 651-296-0878. The Board meeting is expected to adjourn about 10:30 a.m. I look forward to seeing you on May 23rd!

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>Mankato</i>	<i>New Ulm</i>	<i>Rochester</i>
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BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, MAY 23, 2012

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF APRIL 25, 2012 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

INTRODUCTION OF NEW BWSR STAFF

- Angie Becker Kudelka, Organizational Effectiveness Director
- Jenny Gieseke, Training Coordinator

REPORTS

- Chair – Brian Napstad
- Administrative Advisory Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Wetlands Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Paul Langseth
- Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth
- RIM Reserve Management Planning Committee – Gene Tiedemann
- Drainage Work Group – Tom Loveall

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

1. Polk County Local Water Management Plan Update – Quentin Fairbanks – **DECISION ITEM**

NEW BUSINESS

1. Legislative Update – Julie Blackburn – **INFORMATION ITEM**
2. Minnesota Elevation Mapping Project Update (aka LiDAR) – Tim Loesch, DNR, GIS Operations Supervisor - **INFORMATION ITEM**

AGENCY REPORTS

- Minnesota Department of Agriculture – Matthew Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Rebecca Flood

ADVISORY COMMENTS

- Association of Minnesota Counties – Annalee Garletz
- Minnesota Association of Conservation District Employees – Matt Solemsaas
- Minnesota Association of Soil and Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Sandy Hooker
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Tim Koehler

UPCOMING MEETINGS

- Next Board Meeting – June 27, 2012
- BWSR Board Tour and Meeting – August 22-23, 2012

11:30 AM ADJOURN

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, APRIL 25, 2012**

BOARD MEMBERS PRESENT:

Bob Burandt, Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Quentin Fairbanks, Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Tom Loveall, Keith Mykleseth, Brian Napstad, Tom Landwehr, DNR; Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg, Matt Wohlman, MDA

BOARD MEMBERS ABSENT:

Rebecca Flood, PCA
Todd Foster
John Meyer

STAFF PRESENT:

Don Buckhout, Tim Dykstal, Bill Eisele, Travis Germundson, Jim Haertel, John Jaschke, Sherri Johnson, Al Kean, Kari Keating, Misty Pellerin, Paul Senne, Ron Shelito, Pete Waller, Jason Weinerman, Dave Weirens, Brad Wozney

OTHERS PRESENT:

Leann Buck, MASWCD
Tim Koehler, NRCS
Doug Norris, DNR
Len Price, Conservation Corp. MN
James Adkinson, Conservation Corp. MN
Eric Antonson, Conservation Corp. MN

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Chair Napstad called the meeting to order at 9:04 a.m.

PLEDGE OF ALLEGIANCE

**** 12-29 ADOPTION OF AGENDA** Moved by Paul Langseth, seconded by Sandy Hooker, to adopt the agenda as amended. Motion passed on a voice vote.

**** 12-30 MINUTES OF MARCH 28, 2012 BOARD MEETING** – Moved by Quentin Fairbanks, seconded by Paul Langseth, to approve the minutes of the March 28, 2012, as circulated. Motion carried.

INTRODUCTION OF NEWLY APPOINTED BOARD MEMBERS

Joe Collins, WD Representative

Jack Ditmore, Citizen

Steve Sunderland, SWCD Representative

INTRODUCTION OF NEW BWSR STAFF

Tim Dykstal, Fiscal Compliance Director

Misty Pellerin, Accounting Officer

REPORTS

Chair – Brian Napstad reported that he is ready to conduct the Executive Director's performance evaluation, but he is still missing a few evaluations. He is on the EQB Board (now vice chair), and that as part of the Executive Order they are looking for stakeholder input from people related to environmental permitting and are planning for an upcoming environmental congress, "State of the Environment". The Mississippi Headwaters Board met with the member counties involved to assess whether they were on the right track with the Clean Water Fund money they had received from BWSR.

Administrative Advisory Committee – John Jaschke reported on the agenda items that included; Legislative update, a revised Committee roster, the Buffalo Red River Watershed District enlargement petition, the Executive Director Performance Review schedule and a staffing update.

Executive Director – John Jaschke went through materials in the folder and provided a Legislative update that included: Environmental Policy Bills: HF 2164/SF 1830. RIM and Road Wetland Replacement Bonding Bills: HF 2622, HF1752, HF1752, SF 2577; the Legacy Omnibus Bills: SF 2493/HF 2430; and, the Omnibus Agriculture Policy Bill: HF2398.

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Dispute Resolution Committee – Travis Germundson reported that there has been one new appeal since the summary included in the board packet. File 12-06 is an appeal of a restoration order in Rock County. Travis provided an update on a couple of pending appeals and mentioned that with several new Dispute Resolution Committee appointments, he will discuss with the new committee chair the possibility of a training session with the Office of the Attorney General.

Wetlands Committee – Gerald Van Amburg reported that the Wetlands Committee will be meeting directly after the Board Meeting. He previously met with staff to discuss current business.

Grants Program & Policy Committee – Paul Langseth reported that the Grants Program & Policy Committee met after last month's meeting and they will have an item on the agenda.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that they have not met.

RIM Reserve Management Planning Committee – Gene Tiedemann reported that they have not met but plan to next month.

Drainage Work Group – Tom Loveall reported that they have not met due to legislative session, but that they have received a report from Al Kean. The report deals with what is the effect of drainage tile on flooding based on analysis from the Red River Valley. The report will be posted on BWSR's website. The Drainage Work Group is looking to schedule a meeting in June.

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee

Biennial Budget Request – Dave Weirens gave some background on the Biennial Budget Request. He walked the Board through the timeline to implement the Biennial Budget request and reviewed the policy. This process will replace the SWCD Annual Plan and the Allocation and Contribution Statements for the Natural Resources Block Grant. There was some discussion and several questions. Moved by Paul Langseth, seconded by Matt Wohlman to approve the Biennial Budget Request and authorize staff to implement this new approach to agency grant programs. Gerald Van Amburg called for the question. Motion passed on a voice vote.

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12-31

Metro Water Planning Committee

Mississippi WMO Plan Amendment – Brad Wozney presented the final draft Amendment to the Mississippi WMO Watershed Management Plan, filed with the Board on March 20, 2012. The draft Order contains a summary of the changes and

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the reviewing agencies' comments. No comments were received during the public hearing that resulted in revisions to the draft Amendment. Moved by Bob Burandt, seconded by Faye Sleeper, to approve the Metro Water Planning Committee's recommendation to approve the Plan Amendment. Motion passed on a voice vote.

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12-32

Ramsey-Washington Metro WD Enlargement Public Hearing – Jim Haertel reported that the Cities of Roseville and Shoreview submitted a Petition to enlarge the Ramsey-Washington Metro Watershed District pursuant to Minn. Stat. § 103D.261. The Petition was accompanied by resolutions of concurrence from the two affected cities. The proposed enlargement would expand the District into the area of the soon to be dissolved Grass Lake WMO. Minn. Stat. § 103D.261, subdivision 2, subitem A, requires a public hearing be held before the Board makes a decision on the Petition. The Metro Water Planning Committee recommends a public hearing be held within 35 days of the date of the Board's Order after proper notice has been given, that the Committee preside over the public hearing and bring recommendations on the Petition to the Board, and that the Executive Director set the date, time and location of the public hearing after coordination with the appropriate parties per the attached draft Order. Moved by Bob Burandt, seconded by Tom Landwehr, DNR, to approve the Committee recommendation to set a public hearing. A date for the hearing is tentatively set for Tuesday, May 29, 2012. Motion passed on a voice vote.

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12-33

Wright SWCD Nomination Districts – Jim Haertel reported that the Wright SWCD currently has nomination districts for supervisors. The attached Nomination Districts Resolution does not change the current nomination districts, rather it clarifies them. The Wright County Auditor requested clarification due to the expansion of rural cities over the years. The resolution clarifies that the nomination districts remain along township lines regardless of city boundaries. The Wright SWCD Board of Supervisors unanimously adopted the resolution. The Metro Water Planning Committee, based on a unanimous vote recommends the Board approve the Resolution. Moved by Paul Langseth, seconded by Sandy Hooker, to approve the Nomination Districts Resolution per the one sentence resolution immediately under the signature of the Wright SWCD Secretary. Motion passed on a voice vote.

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12-34

Northern Water Planning Committee

Buffalo Red Watershed District Enlargement and Increase of Managers Petition – Ron Shelito and Pete Waller reported that the Enlargement and increase in Number of Managers of the Buffalo Red River Watershed District (BRRWD) was held February 23rd as a result of the January 4, 2012 petition from the Buffalo Red River Watershed District, Otter Tail County and Wilkin County. This is the same area Wilkin County Petitioned to establish the Upper Red Lower Otter Tail Watershed District. At the September 7, 2011 establishment hearing, Otter Tail County suggested enlarging the

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BRRWD as an alternative to establishing a new watershed district. Wilkin County agreed to have their establishment petition held in abeyance to allow time for Wilkin and Otter Tail Counties and the BRRWD to further explore Otter Tail County's suggestion. The Northern Water Planning Committee met April 11, 2012, reviewed and recommends approval of the enlargement and increase in the number of managers petition of the BRRWD. Increase the number of managers to seven with the distribution of: 3-Clay County, 2-Wilkin County, 1-Becker County and 1-Otter Tail County; and the BRRWD's Watershed Management Plan be amended within two years.

- **
12-35 Moved by Paul Langseth, seconded by Gene Tiedemann, to approve the Northern Water Planning Committee recommendation of the approval of the enlargement and increase in the number of managers petition of the BRRWD and to increase the number of managers to seven. Gerald Van Amburg abstained. Motion passed on a voice vote.

Crow Wing SWCD Supervisor Boundary Change Request – Quentin Fairbanks reported that the Crow Wing Soil and Water Conservation District is requesting that BWSR approve a change to Supervisor Nomination Districts. At their January 18, 2012 regular board meeting, the Crow Wing board of supervisors voted to change the boundaries of supervisor nomination Districts 3 and 4 (see attached map). The purpose of the change is to have the Whitefish Chain of Lakes entirely within on nominating district (District 4). This would be achieved by the City of Crosslake from District 3 and placing it in District 4. Moved by Keith Mykleseth, seconded by Quentin Fairbanks to approve the change to Supervisor Nomination Districts. Motion passed on a voice vote.

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12-36

Isanti County Five Year Plan Amendment – Quentin Fairbanks reported that on June 30, 2006, the Board of Water and Soil Resources approved Isanti County's Comprehensive Local Water Management Plan for a ten year period from 2006-2016 with a required amendment by May 2011. On April 20, 2011, the county passed a resolution to begin the amendment process. The amended plan was submitted to the Brainerd field office on December 5, 2011. The Northern Water Planning Committee met on April 11, 2012 where they reviewed the plan amendment and recommended approval of the amendment through May 31, 2016. Moved by Keith Mykleseth, seconded by Quentin Fairbanks, to approve the amendment through May 31, 2016. Motion passed on a voice vote.

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12-37

Itasca County Local Water Management Plan Amendment – Quentin Fairbanks reported that Itasca County submitted their amended Local Water Management Plan for final state review and comment. The Northern Water Planning Committee met on April 11, 2012 and recommends approval of the Plan amendment. Moved by Quentin Fairbanks, seconded by Sandy Hooker, to approve the Itasca County Local Water Management Plan Amendment. Motion passed on a voice vote.

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12-38

NEW BUSINESS

Conservation Corps Minnesota & Iowa Apprentice Program – The Conservation Corps of Minnesota and Iowa partners with BWSR for Clean Water Funding and the highly successful SWCD Apprentice Academy. The Apprentice Academy transfers knowledge from experienced professionals to the next generation of conservation managers. Real-world experience gained with SWCDs during their busy construction season is experience textbooks cannot convey. Len Price and James Adkinson presented the results of year one and addressed where the effort is expected go in 2012 and beyond.

AGENCY REPORTS

Minnesota Department of Agriculture – Matthew Wohlman reported that MDA Ag Water Quality Certification Task Force will be named in May and begin their work in June.

Minnesota Department of Health – Chris Elvrum reported that Health pulled together a meeting with different agencies to discuss Frac Sand mining.

Minnesota Department of Natural Resources – Tom Landwehr reported on the recent grasslands meeting that included NRCS Chief Dave White. CRP acres will be coming up for renewal and it is likely that a lot of landowners may not renew. There are discussions underway on how to keep more grass on the landscape. He also updated members on the legislative status of the school trust land management issue.

ADVISORY COMMENTS

Minnesota Association of Soil and Water Conservation Districts – LeAnn Buck welcomed new board members. MASWCD has policy positions related to some of what BWSR does and if there are comments to let her know. Streamlining of federal programs is one expected outcome of the next federal farm bill. The Ag water certainty project includes several SWCD representatives. LeAnn was asked about the BBR and what MASWCD thinks. The Association has not taken a position on this program because they are still learning. They have some reservations yet, but support the goal of the effort.

Minnesota Association of Townships – Sandy Hooker reported that they have a new Executive Director and they are excited about him taking them in a new direction.

Natural Resources Conservation Service – Tim Koehler reported that they are working with RIM WRP funds in the Red River Valley. There have been some expressed needs for increased technical support. NRCS has been working with BWSR's Engineering and Easement staff to work on a process for the local government units to know who does what.

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UPCOMING MEETINGS

Next Board Meeting – May 23, 2012

** Moved by Bob Burandt, seconded by Paul Langseth, to adjourn the meeting at 1:05
12-39 p.m. Motion passed on a voice vote.

Respectfully submitted,

Kari Keating
Recorder



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: May 23, 2012

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s) _____

Presented by: Gerald Van Amburg/Travis Germundson

☐ Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: ☐ Resolution ☐ Order ☐ Map ☒ Other Supporting Information

Fiscal/Policy Impact

- ☒ None ☐ General Fund Budget
☐ Amended Policy Requested ☐ Capital Budget
☐ New Policy Requested ☐ Outdoor Heritage Fund Budget
☐ Other: _____ ☐ Clean Water Fund Budget

ACTION REQUESTED

None

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

Dispute Resolution Committee Report. The report provides a monthly update on the number of appeals filed with the BWSR.

Dispute Resolution Report
May 11, 2012
By: Travis Germundson

There are presently **16** appeals pending. All of the appeals involve WCA except File 10-10. There have been **no** new appeals filed since the last report dated April 25, 2012.

Format note: New appeals that have been filed since last report to the Board.
~~Appeals that have been decided since last report to the Board.~~

File 12-06 (4-16-12). This is an appeal of a restoration order in Rock County. The appeal regards the ditching and tiling of up to 20 acres of wetlands associated with agricultural activities. No decision has been made on the appeal.

File 12-05 (4-2-12) This is an appeal of an exemption determination in Renville County. The appeal regards the denial of an agricultural drainage exemption associated with a 1.5 acre wetland. At issue is the wetland type determination. The appeal has been remanded for completion of technical work and administrative proceedings.

File 12-04 (3-23-12) This is an appeal of a restoration order in Todd County. The appeal regards the placement of fill within the building setback zone identified in the local shoreland management ordinance. No decision has been made on the appeal.

File 12-03 (2-21-12) This is an appeal of a no-loss determination in Hennepin County. The site is within the boundaries of the Mississippi National River and Recreation Area. The appeal regards the approval of a no-loss application contenting that the applicant provided no proof to show qualification for a No-Loss. The project proposes to restore the site to an open space/park condition. The appeal has been remanded for the TEP to produce a written report adequately addressing the No-Loss determination and for administrative proceeding (conduct a public hearing producing written findings).

File 12-02 (1-18-12) This is an appeal of a restoration order in Aitkin County. The appeal regards the excavation and filling of approximately 30,200 sq. ft. of a Type 7 wetland association with the construction of private road/trail. The appeal has been placed in abeyance and the restoration order stayed for proper service of the restoration order and for submittal of additional information in support of the appeal.

File 11-1 (1-20-11) This is an appeal of a restoration order in Hennepin County. The appeal regards the filling of approximately 1.77 acres of wetland and 0.69 acres of excavation. The appeal has been placed in abeyance and the restoration order stayed until there is a final decision on an after-the-fact wetland application.

File 10-10 (6-10-10) This is an appeal filed under Minn. Stat. 103D.535 regarding an order of the managers of the Wild Rice Watershed District not to go forward with the Upper Becker Dam Enhancement Project as proposed. Appeals filed under 103D.535 require that the Board follow the Administrative Procedures Act. The Act requires that the hearing be conducted by an Administrative Laws Judge through the Office of Administrative Hearings. The appeal has been placed in abeyance pending settlement discussions. A verbal settlement agreement has been reached by the parties. (at the December 2010 Board meeting, Managers voted 6 to 1 to move forward with Option D)

File 10-7 (2-19-10) This is an appeal of a restoration order in Stearns County. The appeal regards draining and filling impacts to approximately 18.44 acres of Type2/3 wetland and 3.06 acres of Type 2 wetland. The appeal has been placed in abeyance and the restoration order stayed for submittal of "as built" or project information pertaining to a public drainage system.

File 10-3 (2-1-10) This is an appeal of a restoration order in Stearns County. The appeal regards the placement of agricultural drain tile and the straightening and rerouting of a county ditch that resulted in over 12 acres of wetland impacts. The appellant has granted BWSR additional time to make a decision on the appeal. No decision has been made on the appeal.

File 09-13 (8-20-09) This is an appeal of an exemption decision in Otter Tail County. The appeal regards the denial of an exemption request for agricultural/drainage activities. A previous denial of the same exemption decision had been appealed (File 09-6). The appeal was remanded for further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted. A pre hearing conference convened on November 12, 2009. At which time parties agreed to hold off scheduling written briefs until the petition before NRCS is concluded. The appeal has been placed in abeyance by mutual agreement until there is a final decision by the Department of Agriculture National Appeals Division. A settlement agreement was reached with NRCS. The scheduling was delayed to allow the LGU the opportunity to resolve this matter in formally. Discussions have since broken off and now the LGU is requesting that BWSR move forward with the appeal.

File 09-10 (7-9-09) This is an appeal of a banking plan application in Aitkin County. The appeal regards the LGU's denial of a banking plan application to restore 427.5 acres of wetlands through the use of exceptional natural resource value. The appeal has been accepted and pre-hearing conferences convened on October 13 and 30, and December 14, 2009. Settlement discussions are on hold while the appellant addresses permitting issues with the Corps of Engineers. The appeal has been placed in abeyance by mutual agreement on determining the viability of a new wetland banking plan application.

File 09-3 (2-20-09) This is an appeal of a replacement plan decision in Anoka County. The appeal regards the approval of a wetland replacement plan for 11,919 square feet of impacts associated with a residential development. The appeal has been placed in abeyance and the replacement plan decision stayed for submittal of a revised replacement plan application. The three owners are also in the process of splitting up the property.

File 08-9. (03/06/08) This is an appeal of a replacement order in Pine County. The appeal regards impacts to approximately 11.26 acres of wetland. The replacement order has been stayed and the appeal has been placed in abeyance pending disposition with the U.S. Dept of Justice.

File 06-23. (05/19/06) This is an appeal of a replacement plan decision in Kanabec County. The LGU denied the wetland replacement plan application. A previous denial of the same replacement plan application had been appealed, the appeal was remanded for a hearing, and now the current denial has been appealed. The appeal has been placed in abeyance pending the outcome of a lawsuit between the landowner and the county. The lawsuit concerns the county's possible noncompliance with the 60-day rule. The county prevailed in district court; however the decision was appealed to the Court of Appeals where the county again prevailed. An appeal to the Minnesota Supreme Court was denied review.

File 06-17. (05/27/06) This is an appeal of a replacement plan decision in the City of Montgomery in LeSueur County. The LGU denied an after-the-fact wetland replacement plan application based on a lack of sufficient reasons why the restoration could not be completed. The appeal was been remanded for further processing at the local level. The City of Montgomery has gradually been working on removing the debris and restoring the wetland in accordance with MPCA requirements.

File 05-1. (01/13/05) This is an appeal of a replacement plan decision by the Rice Creek Watershed District. The District previously made a decision that was appealed which resulted in a remand for an expanded TEP. Now there is an appeal of the decision made under remand since the decision differed from the TEP report. At issue are wetland delineation and the Comprehensive Wetland Protection and Management Plan that BWSR approved. After a hearing before the DRC, the board remanded the matter for new wetland delineation and for submission on an updated, complete replacement plan application. On 12-9-09 the District made a new wetland delineation decision. The applicant has not yet submitted an updated replacement plan application.

Summary Table

Type of Decision	Total for Calendar Year 2011	Total for Calendar Year 2012
Order in favor of appellant	2	1
Order not in favor of appellant	2	
Order Modified	2	
Order Remanded		2
Order Place Appeal in Abeyance	4	1
Negotiated Settlement	1	
Withdrawn/Dismissed	2	

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

1. Polk County Local Water Management Plan Update – ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE:

Polk County LWMP Update Approval ☐

Meeting Date: May 23, 2012

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Ron Shelito

Prepared by: Brian Dwight

Reviewed by: Northern Water Planning Committee Committee(s)

Presented by: Committee Member

☐ Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: ☐ Resolution ☒ Order ☐ Map ☐ Other Supporting Information

Fiscal/Policy Impact

☒ None

☐ Amended Policy Requested

☐ New Policy Requested

☐ General Fund Budget

☐ Capital Budget

☐ Outdoor Heritage Fund Budget

☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Board approval of the Polk County Local Water Management Plan Update

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

This agenda item was delayed from the April meeting until the May meeting due to the official county newspaper failure to publish the public hearing announcement, thus the hearing had to be delayed a month to meet public meeting announcement requirements.

The Polk County Plan Update adequately addresses all of the priority concerns identified in the Priority Concerns Scoping Document. The priority concerns for this Plan Update have remained the same as in the previous Plan with an addition of an additional priority concern. Priority concerns for this Plan update are:

- Surface Water Quality: With attention given to lakes in East Polk County and source water protection (surface water appropriations) for domestic use in West Polk County
- Quantity of water passing through Polk County
- Management, Enhancement, and Preservation of Natural Resources
- Exotic and Invasive Species Management: Aquatic and Terrestrial Invasive Species (new priority concern).

The Plan Update identifies four major watersheds within the County (Grand Marais River, Sand Hill River, Red Lake River and the Clear Water River) and has identified the tasks needed to address priority concerns in the watersheds. In addition to the LWMP objectives, the Polk Plan Update also makes specific reference to the Red Lake and Sand Hill River Watershed Districts Long Range Plans as a major guidance document for the implementation strategies for the priority concerns identified in the Polk County Plan Update. The Polk County Plan Update is identified as a 10-year plan with a review of the plan in five years. The Polk County Local Water Management Plan meets the content requirements in 103D.314, follows BWSR guidelines and addresses the issues identified by the local planning task force and the state review agencies. The Northern Water Planning Committee recommends approval of the Polk County Local Water Management Plan.

Minnesota Board of Water and Soil Resources
520 Lafayette Road N.
Saint Paul, MN 55155

In the Matter of Reviewing the Local Water Management Plan Update
For Polk County (Minnesota Statutes, Section 103B.311,
Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER
APPROVING
LOCAL WATER
MANAGEMENT
PLAN UPDATE

Whereas, the Polk County Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board on March 14, 2012, pursuant to M.S. Section 103B.315, Subd. 5, and

Whereas, the Board has completed its review of the Plan Update;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

- 1) On April 6, 2010 The Polk County Board of Commissioners passed a resolution to update their Local Water Management Plan, pursuant to M.S. Sections 103B.301- 103B.335.
- 2) On April 15, 2011 the Minnesota Board of Water and Soil Resources received a Priority Concerns Scoping Document from Polk County, pursuant to M.S. Section 103B.312.
- 3) On June 15, 2011 The Northern Plan Review Committee reviewed the Priority Concerns Scoping Document with representatives from Polk County.
- 4) On June 22, 2011 the Board of Water and Soil Resources approved official comments on the Polk County Priority Concerns Scoping Document, which were mailed to the county on June 25, 2011.
- 5) The priority concerns, in no particular order of importance, the Plan Update addresses include:
 - Surface Water quality: Lakes in East Polk County and Surface water quality particularly for domestic use in West Polk County
 - Quantity of water passing through Polk County
 - Management, Enhancement, and Preservation of Natural Resources in Polk County
 - Exotic and Invasive Species Management: Aquatic and Terrestrial Invasive Species

- 6) On March 14, 2012 the BWSR received the Polk County Plan Update for final review.
- 7) On March 16, 2012 the final Polk County Plan Update was sent out for state agency review.
- 8) Recommendations of the state review agencies were:
 - A) Minnesota Department of Agriculture: Missing the plan input opportunity during Priority Concerns Scoping, MDA provided suggestive considerations to the final Plan Update regarding agricultural drainage, ground and surface water protection, and manure management.
 - B) Minnesota Department of Health: Approve the entire Plan Update as submitted
 - C) Minnesota Department of Natural Resources: The DNR stated that the Plan Update adequately addressed the stated priority concerns and recommends its approval but provided comments regarding suggestive changes to grammatical corrections, goal and objective statements, and formatting to provide for better "readability".
 - D) Minnesota Pollution Control Agency: no recommendation received
 - E) Minnesota Environmental Quality Board: no recommendation received;
 - F) Minnesota Board of Water and Soil Resources: the Plan Update meets plan content requirements of 103B.314 and regional staff recommends approval;
- 9) On April 11 2012, the Northern Water Planning Review Committee of the board meet with representatives from Polk County to review the Plan Update, and the recommendations of the state review agencies regarding final approval of the Polk County Plan Update.
- 10) Northern Water Plan Review Committee: Pending no concerns brought forward at the public hearing held by the Polk County board of Commissioners regarding the Polk County Plan Update the Northern Plan Review Committee recommends approval of the Polk County Local Water Management Plan
- 11) On May 18, 2012 a record of the public hearing, and copies of all written comments pertaining to the Plan Update where received by the Board for final State review pursuant to M.S. Section 103B.315, Subd. 5.
- 12) This Plan Update will be in effect for a ten-year period until May 23, 2022, with a review and an update of the work plan in 2017.

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Local Water Management Plan Update of Polk County pursuant to Minnesota Statutes, 103B.315, Subd. 5.
2. The Polk County Plan Update attached to this Order states water and water-related problems within the county; general goals, objectives, and actions of the county; and an implementation program. The attached Plan Update is in conformance with the requirements of M.S. Section 103B.301.

ORDER

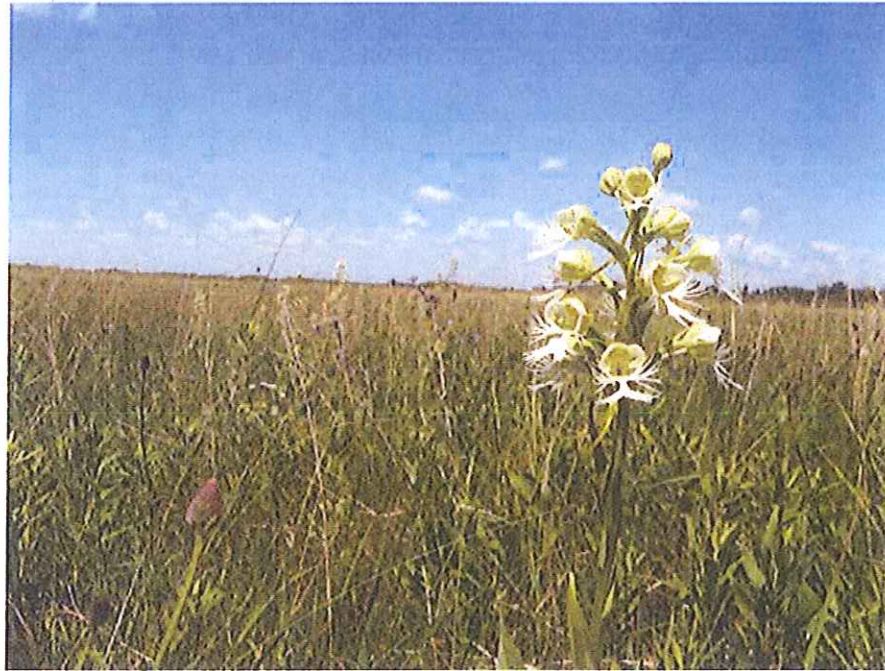
The Board hereby approves the attached update of the Polk County Local Water Management Plan – May 23, 2012 to May 23, 2022 with a review and update of its work plan in 5 years.

Dated at St Paul, Minnesota, this twenty-third day of May 2012.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

Polk County Local Water Plan



Local Water Management Coordinators

East Polk Soil & Water Conservation District
West Polk Soil and Water Conservation District

Polk County Board of Commissioners

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Polk County Water Plan Task Force Committee Members

Warren Affeldt	County Commissioner
Craig Bunn	County Commissioner
Gary Lee	East Polk Soil & Water Conservation District
Katie Engelmann	East Polk Soil & Water Conservation District
Larry Vettleson	East Polk Soil & Water Conservation District
Russ Severson	West Polk Soil & Water Conservation District
Nicole Bernd	West Polk Soil & Water Conservation District
Brian Dwight	MN Board of Water & Soil Resources
Josh Johnston	Polk County Environmental Services
Terry Wolfe	MN Department of Natural Resources
Randy Huelskamp	Natural Resources Conservation Service
Dan Wilkens	Sand Hill River Watershed District
Corey Hanson	Red Lake Watershed District
Nick Drees	Middle River Snake River Watershed District
Jim Courneya	MN Pollution Control Agency
Keith Mykleseth	The Nature Conservancy
Wayne Goeken	River Watch
	U.S. Fish & Wildlife Service
	MN Department of Agriculture
	MN Department of Health
	Maple Lake Improvement District
	City of Crookston
	City of East Grand Forks

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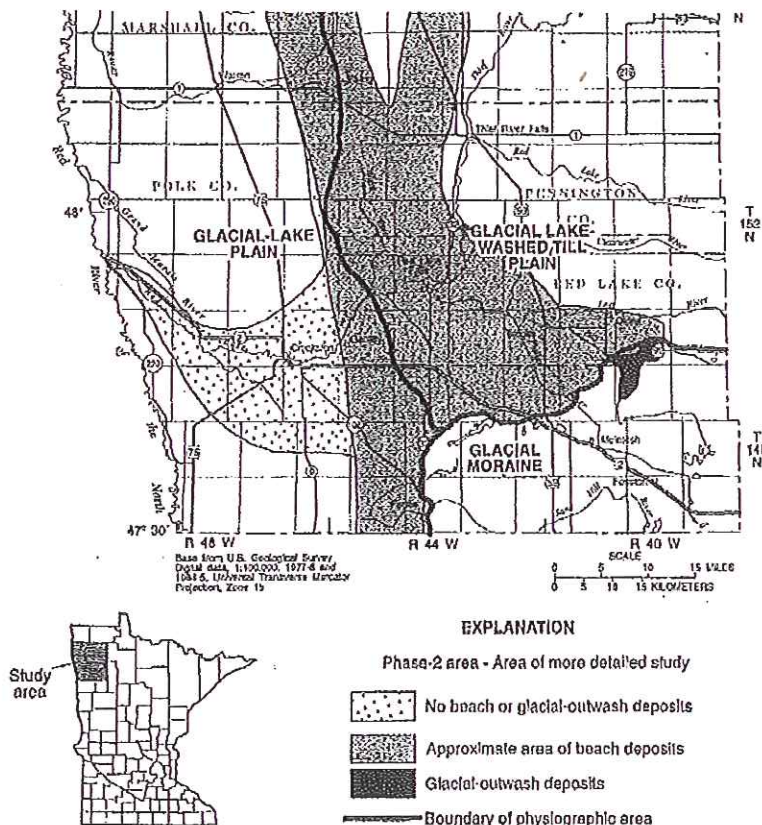
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I. Executive Summary

Introduction

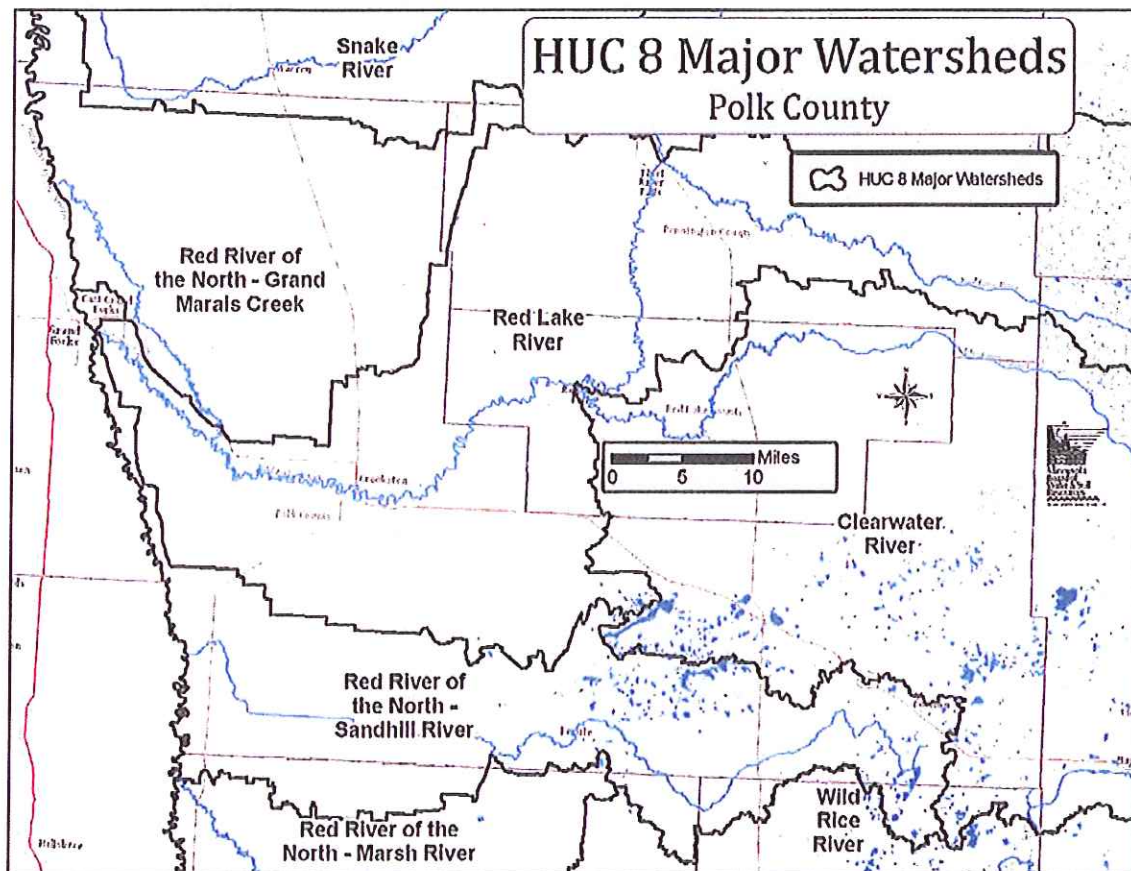
Polk County is located in northwest Minnesota. According to the U.S. Census Bureau, the county has a total area of 1,998 square miles, of which 1,971 square miles are land and 27 square miles are water. According to the April 1, 2010 census, the population of Polk County was 31,600. Projected population change as reported by the Minnesota Demographic Center, (June, 2007) show the population increases slightly (32,610) by the year 2015. The County seat is located in Crookston and the largest community is East Grand Forks. There are 58 townships and 15 cities within the county.

Polk County includes three general physiographic areas; glacial-lake plain, glacial lake-washed till plain, and glacial moraine area. The western third of Polk County is glacial-lake plain. This area is extremely flat, sloping only a few feet per mile. At one time it was the floor of glacial Lake Agassiz. The silty loam sediments that accumulated there formed fertile soils making one of North America's most fertile farming regions. The glacial lake-washed till plain is flat to gently rolling area that has local relief up to 15 feet and is located mid-county. The western part of the glacial lake-washed till plain is traversed by north-south and northeast-southwest trending long, narrow beach ridges, some are as much as 20 feet high. The glacial moraine is an area of hills and depressions that has local relief up to 150 feet and is present in the eastern part of Polk County. (U.S. Geological Survey, *Water-Resources Investigation Report 95-4201*, 1996).



Polk County lies within the Red River of the North Basin Watershed. Due to the unique lake/river basin soils left by Glacial Lake Agassiz the primary land use of Polk County is agriculturally based, approximately 78%. The 2007 Census of Agriculture County Data from the USDA National Agriculture Statistic Service shows the number of farms in Polk County is 1,609 with the average farm size at 684 acres. The total cropland acres are 976,367 and with 10,439 acres of irrigated land. Land use practices in the beach ridge areas have previously been gravel mining and agriculture. These areas are now trending toward the restoration of pre-settlement conditions.

Four major watersheds are predominant within the jurisdictional boundaries of Polk County. They include the *Grand Marais Creek*, *Red Lake River*, *Sand Hill River* and the *Clearwater River Watersheds*. Three other major watersheds have small acreage within the County. They are the *Wild Rice*, *Snake*, and *Marsh Watersheds*.



Purpose of the Local Water Management Plan:

The purpose of this updated Local Water Management Plan (LWMP) is to identify existing and potential problems and opportunities for protection, management and development of water resources and related land resources in Polk County. Pursuant to the requirements of Minn. Stat. 103B311 subd.4, the five requirements of this plan are as follows:

1. The plan must cover the entire county.
2. The plan must address problems in the context of watershed units and groundwater systems.
3. The plan must be based upon principals of sound hydrologic management of water, effective environmental protection, and efficient management.
4. The plan must be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or ground water system.
5. The plan will cover a ten year period (2012 – 2022) with an implementation plan that will cover a five year period (2012 – 2017) and will then be update for the remaining five years.

Polk County Local Water Management Plan's Update Process

The Polk County Water Plan focuses on water and related land resource issues. The county has gathered and studied available information relating to the physical environment, including, but not limited to, the surface and ground water resources, and their related land use.

Concerns were identified, analyzed, and prioritized by the Polk County Water Plan Task Force Committee within the context of the watershed units and ground water systems where appropriate. The plan applies to the entire area within the county.

The Polk County Water Plan is coordinated and administered by the East Polk Soil and Water Conservation District and the West Polk Soil and Water Conservation District.

The Polk County Water Plan (previously known as the Polk County Comprehensive Local Water Plan) was first developed and approved by the Minnesota Board of Water and Soil Resources in 1990. It was developed as a five year plan and was updated in 1997 (the 1990-1995 Plan was granted a two year extension). The 1997-2002 Plan was granted a two year extension. The 2005 to 2009 plan was also granted a two year extension which expired December 31, 2011.

Priority Concerns of Polk County

Priority Concern #1

The Polk County Local Water Management Plan will focus on protection and enhancement of surface water quality. Specific areas of focus will be:

- Lake Region in the eastern part of the county, with specific focus on the human impacts.
 - Increases in development around smaller, non-recreational lakes and larger wetland complexes should be assessed to determine if adverse impacts have affected the water quality of these smaller bodies of water.
 - For nearly all of the lakes in this ecoregion phosphorus is the limiting factor. Major management efforts related to water quality are directed at limiting the amount of phosphorus loading into the lakes.
 - Sediment loading has also become a major concern to the water quality of the lakes. Proper land use management and implementation of Best Management Practices needs to be analyzed and addressed.
- Surface water and ground waters in the western part of the county.
 - The City of East Grand Forks receives its public water supply from the Red Lake River.
 - The Red Lake River is impaired for turbidity and management efforts should focus on sediment loading into the Red Lake River and its tributaries.
- In addition to the above mentions specific areas of concern for Polk County, The County Board, Watershed Districts and SWCD's will actively pursue efforts to address surface water quality concerns within the county.
- Although surface water is of primary concern for Polk County we will be responsive to the need to monitor and protect our groundwater resources. We will participate to our fullest capacity but state and federal agencies such as Minnesota Department of Health (MDH) and United States Geological Survey (USGS) will need to be the primary source for groundwater protection and management.

Priority Concern #2

Due to the fluvial geomorphic characteristics of the Red River of the North Basin, Polk County is subject to frequent flooding. Some factors such as topography and increase precipitation are unmanageable, but other factors such as flood plain encroachment, channelization of waterways, land use practices and effective private drainage into public systems, are factors that can be assessed for *Best Management Practices*.

- Polk County Local Water Management Plan will focus on the quantity of water passing through the County and its associated watersheds by inventorying, assessing and evaluating the drainage infrastructure.

Priority Concern #3

Polk County is concerned with the preservation and enhancement of its natural resources. The geology of Polk County is divided into 3 distinct areas; the glacial-lake plain, glacial lake washed till plain and glacial moraine region. These major areas, because of their size, unique geographical features, and wide diversity of natural resources are of significant benefit to the area and citizens.

- Polk County in cooperation with other local, state, and federal agencies will work to restore, enhance and protect these areas through programs and projects that accomplish this; cautious it is not done at the expense of the local economy.

Priority Concern #4

Polk County Local Water Management Plan will identify any new or yet to date undiscovered exotic and invasive species for prevention and management practices.

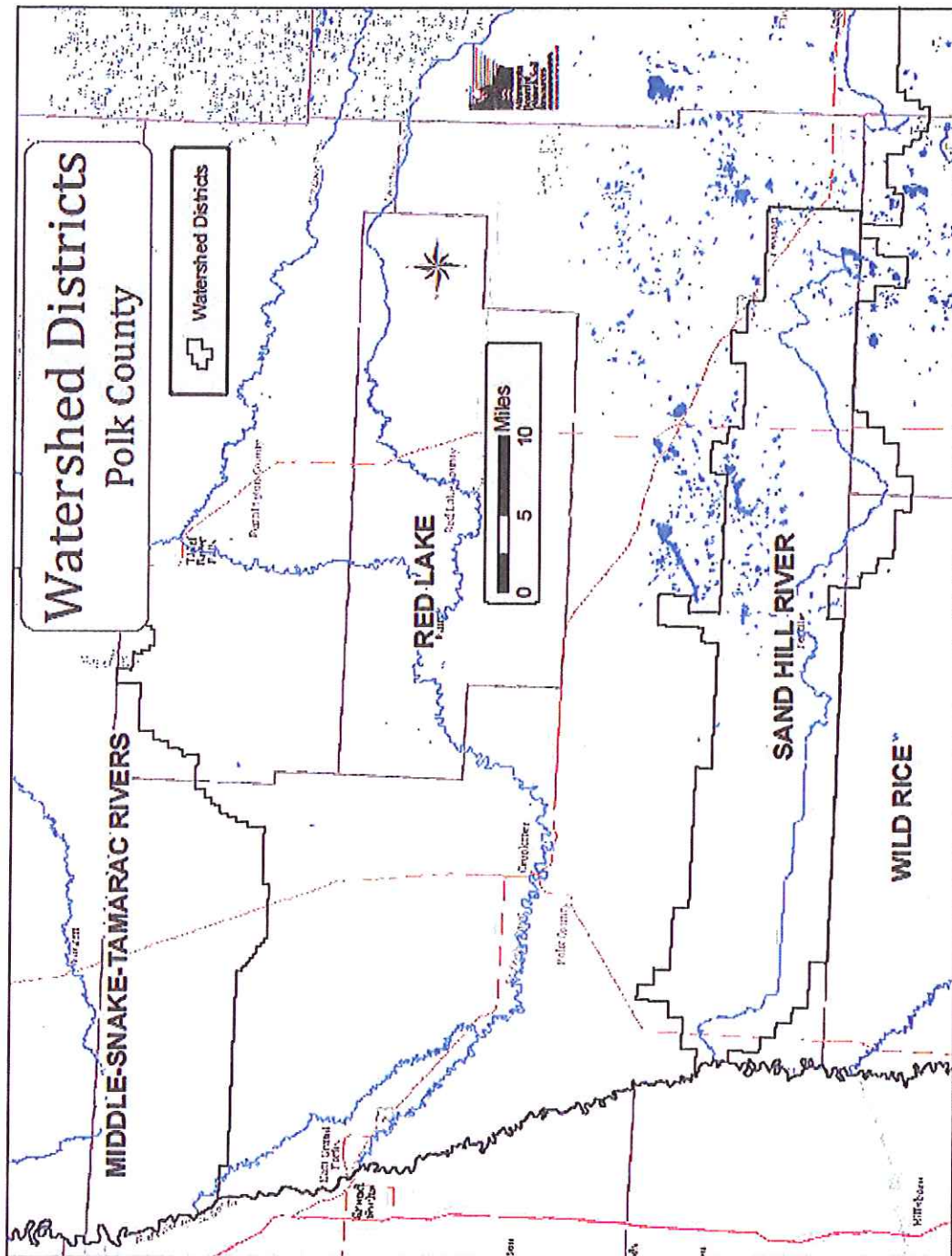
Consistency with Other Plans

In preparation of the Polk County Local Water Plan the most recent plans from several entities were examined to ensure consistency with their concerns. Major plans reviewed were the Sand Hill Watershed District Draft Watershed Management Plan and the Red Lake Watershed District Comprehensive 10 Year Plan. Local plans include Local Water Plans from adjacent counties, and local annual plans from SWCD's and Polk County Environmental Services. The Polk County Local Water Management Plan Update has utilized appropriate action items to support these plans and is consistent with goals and objectives presented in these plans.

The plan is also based on key economic and environmental principles, and is consistent with other plans that exist for Polk County, including Watershed Districts, Soil and Water Conservation Districts, Environmental Service agencies, Red River Valley Basin organizations, and appropriate state and federal agencies.

The plan also takes into consideration the adjacent County Local Water Management Plans in its water management strategies. All the river systems flowing through Polk County are influenced by watersheds that go beyond the jurisdictional boundary of Polk County, therefore to manage water on a watershed bases coordination with adjacent counties with common watersheds to Polk County will be required.

The four major watersheds that have drainage areas within the boundaries of Polk County include the *Grand Marais Creek*, *Red Lake River*, *Clearwater River Watersheds*, which are within the boundaries of the Red Lake Watershed District and the *Sand Hill River* which is the boundary for the Sand Hill River Watershed District. Having been an active participant in the updating processes of the Red Lake Watershed District Overall Plan, which was updated in 2006, and the Sand Hill River Watershed District Overall Plan in 2011 it is the intentions of Polk County Board of Commissioners and the Board of Supervisors for the West and East Polk SWCDs to recognize these Watershed District overall plans as a major reference documents for the implementation strategies for the priority concerns identified in the Polk County Local Water Management Plan. We support this approach based on the principles that water management is best managed on a comprehensive watershed basis. We realize we only make up portions of four of the sub-watersheds addressed in these 2 Watershed overall plans. We intend to reference these frequently as we proceed to implement local water management in our county.



NEW BUSINESS

1. Legislative Update – Julie Blackburn – ***INFORMATION ITEM***
2. Minnesota Elevation Mapping Project Update (aka LiDAR) – Tim Loesch, DNR,
GIS Operations Supervisor - ***INFORMATION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: MN Digital Elevation Mapping (LiDAR) Update

Meeting Date: May 23, 2012

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☐ Decision ☐ Discussion ☒ Information
Section/Region: Technical Services Section
Contact: Al Kean
Prepared by: Al Kean
Reviewed by: _____ **Committee(s)**
Presented by: Tim Loesch, DNR, Al Kean, BWSR

☒ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ Resolution ☐ Order ☐ Map ☒ Other Supporting Information

Fiscal/Policy Impact

- ☒ None ☐ General Fund Budget
☐ Amended Policy Requested ☐ Capital Budget
☐ New Policy Requested ☐ Outdoor Heritage Fund Budget
☐ Other: _____ ☐ Clean Water Fund Budget

ACTION REQUESTED

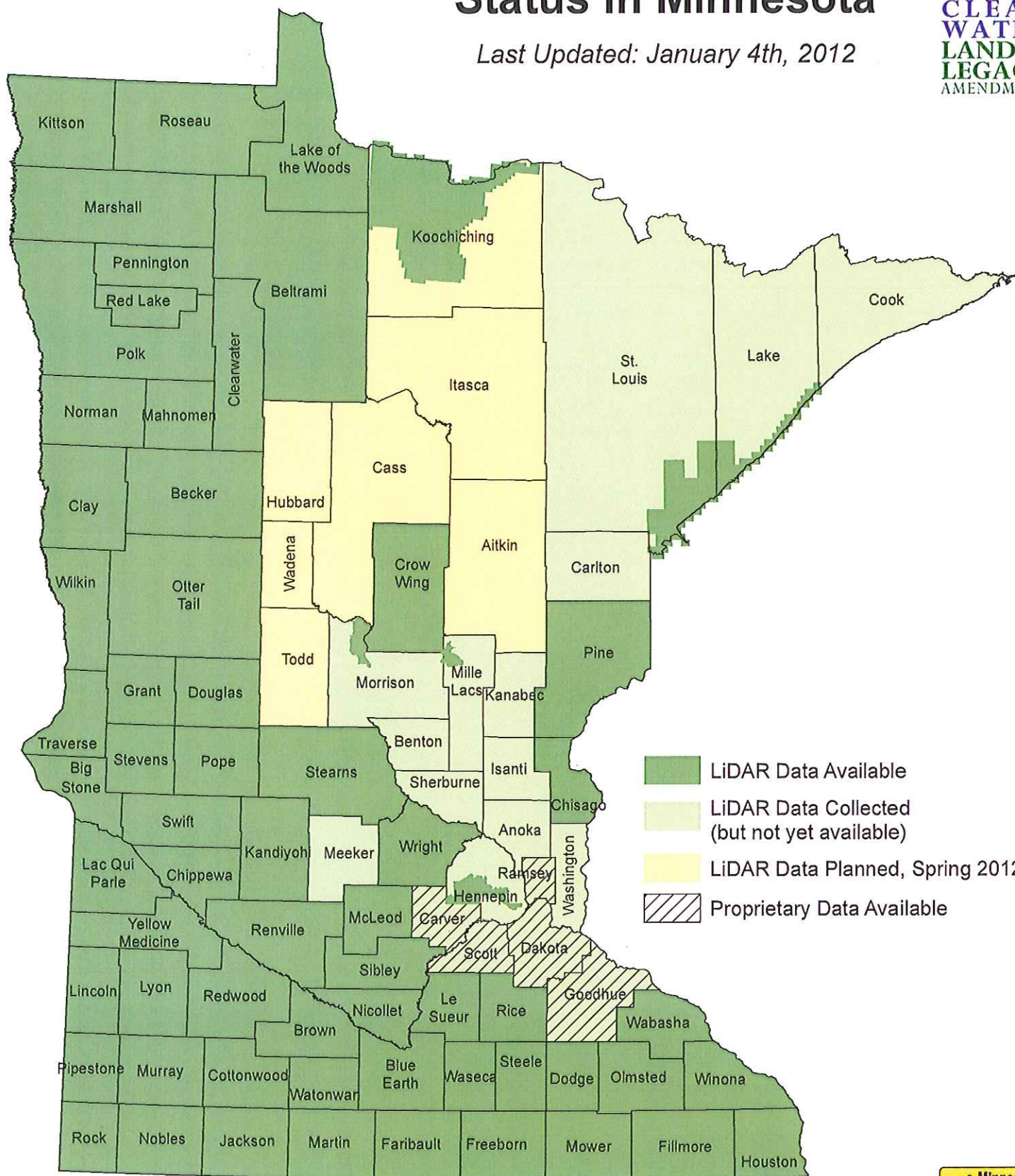
None

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

In 2002, an ad hoc state, federal and local government Digital Elevation Committee assisted DNR to prepare a white paper about the need and opportunity to develop digital elevation models and maps for Minnesota using Light Detecting and Ranging (LiDAR) technology. Several Minnesota counties were early adopters of this technology. As the cost for LiDAR moved downward, the support for digital elevation mapping grew. The Red River Basin was the first large scale digital elevation mapping initiative in Minnesota, involving a partnership of state, federal and local funding sources lead by the International Water Institute. Southeast Minnesota was next, via 2007 flood response funding transferred to DNR. In 2009, after passage of the Clean Water Land and Legacy Amendment, the Legislature appropriated an initial investment of amendment funds to the DNR to advance completion of statewide digital elevation mapping, and provided the final increment of funding in FY 2012. Tim Loesch, DNR GIS Operations Supervisor, has served as the project manager for this statewide effort. Digital elevation data is used for many natural resource management functions and projects, including terrain analysis, other GIS applications, conservation practice planning and design (including wetland restorations), as well as for hydrologic modeling and other natural resource studies. This agenda item will provide an overview and update of statewide digital elevation mapping and current uses.

LiDAR Status in Minnesota

Last Updated: January 4th, 2012



- LiDAR Data Available
- LiDAR Data Collected (but not yet available)
- LiDAR Data Planned, Spring 2012
- Proprietary Data Available



State LiDAR Project Update

5/11/2012

Prepared by Tim Loesch, MnDNR

The State LiDAR project is being coordinated by the Minnesota Digital Elevation Committee and managed by the Department of Natural Resources. Funded through the Clean Water Legacy funds, this project will create a high quality set of elevation data, tools and technical resources that are available to everyone. This project is a cooperative effort between municipal, county, state and federal governments.

Acquisition Status

On April 28th LiDAR acquisition over the Central Lakes project area was completed and we reached a monumental milestone for the Minnesota Elevation Mapping Project. With this final acquisition the total coverage for the project reached 57,500 square miles and complete coverage of publicly available data (when available) for the entire state!

Anticipated delivery dates have not yet been provided by the vendor but we expect to see data starting to show up in early October.

An acquisition contract for Blue Earth County was awarded to Aerometric Inc (the vendor for the surrounding areas) and the area was acquired in mid-April. Product deliverables for this acquisition include full-waveform data over the entire county. This data will be made available once it arrives.

Data Delivery Status

Data delivery for the Arrowhead and Metro project areas is ongoing. For the Arrowhead project Blocks 1, 2, 3 and 4 have been delivered with Blocks 1 and 2 published and available for download. Blocks 3 and 4 are currently undergoing QA/QC. Block 5 delivery is expected by the end of May. RMSEz for Blocks 1 and 2 came in very well at 8.2cm and 12.4cm respectively.

In the Metro project area data has started to arrive. Meeker county data was received in May 5th and is undergoing QA/QC procedures. The RMSEz on this delivery is 12.1cm. Additional data is expected to be delivered in quantities over the next couple of weeks.

Data Download Status

The Minnesota Geospatial Information Office has recently added LiDAR data to it's FTP site. This site is more than three times faster than the DNR site and users are encouraged to use that site for data downloads. The organizational structure has been modified just a bit (the tiled LAS and Geodatabases are included in one place) but the content is identical to the DNR site.

Main ftp address:	ftp.lmic.state.mn.us
LiDAR folder:	/pub/data/elevation/lidar
Arrowhead Block 1	/pub/data/elevation/lidar/data/projects/arrowhead/block_1
Arrowhead Block 2	/pub/data/elevation/lidar/data/projects/arrowhead/block_2

Phase 1 – Minnesota River Basin, MN portion – 17,258 sq miles

This portion of the project was acquired in the spring and fall of 2010. This project has been completed and data are available to the public.

Phase 2 – Minnesota River Basin, SD portion – 1,940 sq miles

This project was funded by the USGS (no state funds were utilized) and was acquired the fall of 2011. This project has been completed and data are available to the public.

Phase 3 – Arrowhead Region - 15,520 sq miles

Acquisition was completed in the spring of 2011.

Blocks 1 and 2 of the data has been delivered and approved, blocks 3 and 4 have been delivered but are in QA/QC processing.

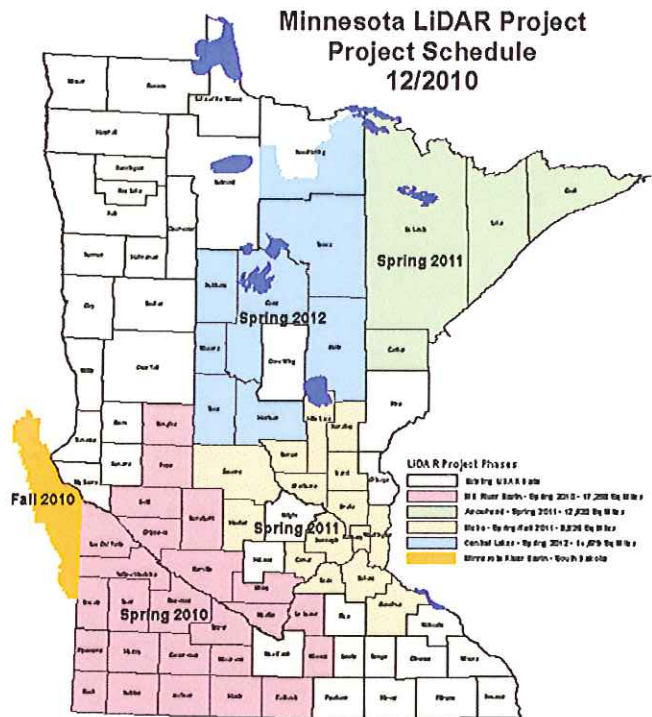
Phase 4 – Metro Region, - 8,826 sq miles

Covering 15 counties in the metro region this was acquired in the spring and fall of 2011.

Meeker county has been delivered and is in the QA/QC Processing stage

Phase 5 - Central Lakes Region - 13,065 sq miles

This project area covers all or parts of seven central Minnesota counties square miles and acquisition will commence when ground conditions are favorable this spring. The contract has been fully executed and the vendor (Woolpert) is preparing for acquisition.



For More information contact Tim Loesch, tim.loesch@state.mn.us or visit the project web site at http://www.mngeo.state.mn.us/committee/elevation/mn_elev_mapping.html
Or Friend the project on Facebook at <http://www.facebook.com/minnesotalidar>